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SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM CONCERNING S. 2577,  
NOVEMBER 17, 1971

Mr. Chairman, members of the Subcommittee, I appreciate this opportunity to appear before you today to present the views of the Department of Transportation on S. 2577 which provides for Federal regulation of the travel agency industry.

As the Committee is aware, the increased affluence of our citizens, together with major improvements in our transportation system, have resulted in a significant increase in interstate and foreign travel over the last decade. Likewise, as travel has increased, so too has the role of the professional travel agent and broker. In fact, over \$5.0 billion in travel or related services are now being purchased annually through travel agencies. The demands on the travel agent, therefore, have become increasingly complex. Further, in addition to his traditional function of arranging transportation services, the travel agent is now called upon to arrange for a variety of non-transportation services including the booking of hotel space and arranging for sightseeing tours and car rentals.

Unfortunately, the public's increased desire to travel has sometimes resulted in their being deceived by unscrupulous operators. These operators, by the unsound and abusive practices they engage in, not only victimize travelers, but serve to discredit legitimate travel agents as well. We

therefore welcome, and we are sure the industry will welcome, the full review of practices and operations of the travel industry which these hearings afford.

While S. 2577 is fairly lengthy, the way it would deal with this problem can be summarized briefly. In essence, S. 2577 recognizes that the growth and changing character of the travel industry make unscrupulous or irresponsible practices in this industry a matter of public concern. Because a considerable volume of travel is interstate or international, it is appropriate that this concern be reflected at the Federal level.

The types of undesirable activities which S. 2577 seeks to eliminate have been summarized by the Chairman in both his remarks accompanying the introduction of this bill and in the announcement of these hearings. The most highly-visible aspect of this problem is, of course, the stranding of air charter passengers because of the dishonesty or financial irresponsibility of their booking agent or tour operator.

S. 2577 would attempt to deal with this and other activities of a similar nature by requiring all persons or firms engaging in the travel agency business, as defined by the bill, to be registered with the Department of Transportation. Registration would be carried out by a Departmental Bureau of Travel Agents. To assist the Bureau Director, the bill creates a Travel Agents Registration Board appointed by the

Secretary and consisting of the Director, two members engaged in the travel agency business and a representative of the ICC, the CAB, the FMC, and an additional representative of the Department. Initially the bill would not affect travel agents already in business unless the Director specifically found that the applicant "lacked good character" or was "not financially qualified."

Persons who could not qualify for a "grandfather" certificate under Section 28 would be registered by the Director upon complying with certain standards. Among these, the bill requires a Director to consider the good character and financial responsibility of an applicant, and, moreover, requires that the Director, with the advice of the board, determine that the applicant will provide "a useful public service." In the event that all the conditions are met, a certificate of registration would be issued to the individual or firm involved. Other features of the bill, specifically Sections 31 and 32, specify the grounds for which a certificate of registration may be revoked and monetary penalties assessed for violating any provision of the Act, or any rule and regulation issued thereunder.

As I noted, we share with the Committee a very deep concern over the existence of unscrupulous and irresponsible operators and practices in the travel industry. There are, however, several major problems the Committee should carefully consider before acting upon this legislation.

First, and perhaps most importantly, is that the registration procedures, which are the heart of S. 2577, will not deal adequately with

the problem. Admittedly, registration requirements of this sort have certainly had a salutary effect in other areas, such as the securities market, in discouraging incompetent, irresponsible or dishonest people from deceiving the public. It should be noted, however, that irresponsibility or dishonesty is punished in this legislation by the imposition of fines and/or penalties which accrue to the government and not the public. Thus, defrauded members of the public are not made whole again. One possible solution to this problem would be a requirement for either performance bonds or some equivalent device by which the public could recoup travel expenditures for which no service has been provided. Further, transportation carriers should be required to deal only with agents registered under this legislation.

A second and somewhat related problem is that the registration provisions would have undesirable side effects on the travel agency industry because these requirements go beyond the specific problems to which S. 2577 is addressed. In particular, we are concerned that these requirements could limit new entry into the travel agency business by legitimate operators. Our basic concern is directed at the provision of the bill requiring an applicant to be of "good character," "financially qualified," and able to "provide a useful public service." With respect to the finding of "good character" and "financially qualified," we feel these terms are overly vague and subjective and require some more precise definition that will clearly and objectively spell out what standards a travel agent is expected to meet. As for the requirement

that an applicant "provide a useful public service," we believe this should be deleted. Whether a travel agent provides a useful public service should be determined by the public itself through the workings of the marketplace. It is not the role of the government, or the policy of this Administration, to act in an anticompetitive fashion unless absolutely necessary.

In accordance with the foregoing two points, we believe that the main thrust of this legislation should be confined to: (1) a determination of the basic competency of the applicant, a matter covered by the requirement for a written examination in Section 27(c) of the bill; (2) an objective determination of the applicant's honesty and integrity based on defined criteria; and (3) reasonable requirements to assure financial responsibility to the public on the part of the operator.

We believe the Committee should also concern itself with the potential overlap and possible conflict with several provisions of existing Federal transportation regulatory laws. While the travel industry, as such, is not subject to any comprehensive regulatory system, several provisions of existing regulatory laws do affect certain aspects of this industry. Specifically, Sections 208(c) and 211 of the Interstate Commerce Act vest the ICC with considerable authority over motor carrier passenger brokers and tour operators. Similarly, the Civil Aeronautics Board, under Section 411 of the Federal Aviation Act, has considerable jurisdiction over the practices of air travel agents, ticket sellers and brokers. Finally, under P.L. 89-777, the Federal Maritime Commission

exercises some regulatory control over the financial responsibility of any person or firm arranging steamship tours of 50 or more passengers. While S. 2577 appears to recognize this problem, in part, by including representatives of all three regulatory agencies on the Travel Agents Registration Board, we feel that any legislation should avoid requiring the travel agent to comply with a multitude of possibly conflicting regulations. Since we understand that the Committee has already requested comments from these three regulatory agencies, we will limit ourselves at this time to pointing out the potential problem. We will, of course, be happy to assist the Committee in working out any problems in this area.

A somewhat similar problem is the effect of this legislation on related State legislation. While we are concerned about possible conflicts or inconsistencies between State and Federal legislation and the burden this might place upon the industry, it is not desirable to preempt all State action in this area.

A final concern which we wish to raise is whether this function should be vested in the Department of Transportation. As I have previously noted, the three transportation regulatory agencies already have jurisdiction in this area. We believe it would be wisest if the functions called for in this legislation are added to the existing agency processes.

In conclusion, while we support the objectives of this measure, we believe that without the changes that I have suggested, this legislation

will not sufficiently benefit either the traveling public or the legitimate travel agent.

This concludes my testimony, Mr. Chairman. I will be happy to answer questions that you or the Committee might have.

